

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KENNETH DONOVAN, HUSSIEN
KASSFY, and JOHN BRAMBL,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

GMO-Z.COM TRUST COMPANY, INC.,

Defendant.

Case No. 1:23-cv-08431-AT

Hon. Analisa Torres

**STIPULATION AND [PROPOSED]
ORDER REGARDING PROPOSED
SECOND AMENDED COMPLAINT**

JURY TRIAL DEMANDED

Plaintiffs Kenneth Donovan, Hussien Kassfy, and John Brambl (collectively, “Plaintiffs”) and Defendant GMO-Z.com Trust Company, Inc. (“GMO Trust”) (Plaintiffs and GMO Trust are referred to herein as the “Parties”) through each of their attorneys of record, respectfully submit this Stipulation and [Proposed] Order regarding Plaintiffs’ Proposed Second Amended Complaint:

WHEREAS, after transfer to this Court from the United States District Court for the Northern District of California, the Court on January 26, 2024 issued an order setting forth a schedule under which the Parties were to meet and confer regarding Plaintiffs’ proposed Second Amended Complaint;

WHEREAS, the Court’s January 26, 2024 order required Plaintiffs to provide GMO Trust (but not file with the Court) a copy of their proposed Second Amended Complaint on or before March 15, 2024 and specified that GMO Trust “shall inform Plaintiffs whether it will oppose the filing of the Second Amended Complaint and provide the basis for any such opposition (if any), on or before March 29, 2024”;

WHEREAS, the Court's January 26, 2024 order further specified that, if GMO Trust opposes Plaintiffs' filing of the proposed Second Amended Complaint, then Plaintiffs shall file any motion to amend their complaint on or before April 5, 2024;

WHEREAS, on March 15, 2024, Plaintiffs provided GMO Trust with their proposed Second Amended Complaint;

WHEREAS, on March 25, 2024, counsel for GMO Trust notified counsel for Plaintiffs that GMO Trust objected to the filing of the proposed Second Amended Complaint in the form sent on March 15, 2024;

WHEREAS, Plaintiff's motion to amend the operative complaint is therefore due on April 5, 2024;

WHEREAS, on March 25, 2024 and March 28, 2024, the Parties met and conferred regarding GMO Trust's objections to Plaintiffs' March 15, 2024 proposed Second Amended Complaint;

WHEREAS, on April 2, 2024, the Parties met and conferred for a third time and reached an agreement in principle that resolved the objections GMO Trust raised during the Parties' March 25, 2024 and March 28, 2024 meet and confer calls;

WHEREAS, GMO Trust does not object to the filing of the proposed Second Amended Complaint attached hereto as Exhibit A and hereby consents to its filing by Plaintiffs;

WHEREAS, Paragraph III(H) of the Court's Individual Practices in Civil Cases requires that any amended pleading be filed with a redline showing all differences between the operative pleading and the proposed amended pleading; a redline showing differences between the First Amended Complaint (filed in the Northern District of California prior to the

September 22, 2023 transfer to this Court) and the proposed Second Amended Complaint is attached hereto as Exhibit B;

NOW, THEREFORE, Plaintiffs and GMO Trust agree:

1. Plaintiffs shall be permitted to file the Second Amended Complaint attached hereto as Exhibit A;
2. By entering into this Stipulation, GMO Trust does not waive, dismiss, release, or otherwise lose any available claims or defenses it may have in response to the Second Amended Complaint and nothing in this Stipulation shall be construed as an admission of liability or fault by GMO Trust;
3. The Parties hereby respectfully request that the Court enter the enclosed [Proposed] Order.

Dated: April 5, 2024

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E-FILING ATTESTATION

In compliance with Rule 8.5 of the Electronic Case Filing Rules & Instructions (July 24, 2023 ed.), I hereby attest that Nowell D. Bamberger identified above has concurred in this filing.

/s/ Elizabeth A. Kramer
Elizabeth A. Kramer

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Hon. Analisa Torres

**[PROPOSED] ORDER REGARDING
PROPOSED SECOND AMENDED
COMPLAINT**

JURY TRIAL DEMANDED

1. Pursuant to Stipulation by the Parties, Plaintiffs are permitted to file their proposed Second Amended Complaint;
2. The Stipulation is without prejudice to any claims or defenses by any party.

SO ORDERED.

DATED: _____

Hon. Analisa Torres
United States District Judge